

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
November 16, 2017**

A meeting of the Louisville Metro Planning Commission was held on November 16, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Vince Jarboe – Chair  
Rich Carlson  
Jeff Brown  
Lula Howard  
Rob Peterson – Left approximately 5:24 p.m.  
Laura Ferguson  
Ramona Lindsey – Left approximately 6:00 p.m.  
David Tomes  
Emma Smith

**Commission members absent:**

Marilyn Lewis – Vice Chair

**Staff Members present:**

Emily Liu, Director, Planning and Design Services  
Joseph Reverman, Assistant Director, Planning and Design Services  
Brian Davis, Planning and Design Manager  
Julia Williams, Planning and Design Supervisor  
Laura Mattingly, AICP, Planner II  
Jay Lockett, Planner I  
John Carroll, Legal Counsel  
Paul Whitty, Legal Counsel  
Travis Fiechter, Legal Counsel  
Tony Kelly, MSD  
Tammy Markert, Engineering Supervisor  
Pamela M. Brashear, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**NOVEMBER 2, 2017 PLANNING COMMISSION REGULAR MEETING MINUTES**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 2, 2017.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Howard, Lindsey, Peterson, Tomes and Jarboe**

**NOT PRESENT FOR THIS CASE: Commissioner Lewis**

**ABSTAINING: Commissioners Ferguson and Smith**

**NOVEMBER 6, 2017 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 6, 2017.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Ferguson, Peterson and Jarboe**

**NOT PRESENT FOR THIS CASE: Commissioner Lewis**

**ABSTAINING: Commissioners Howard, Lindsey, Smith and Tomes**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 17STREETS1014**

Case No: 17STREETS1014  
Project Name: Avoca Road Apartments  
Location: Avoca Road (west of North English Station Road to Railroad)  
Owner(s): City of Louisville  
Applicant: LDG Development  
Representative(s): Dinsmore and Shohl LLP  
Jurisdiction: Louisville Metro  
Council District: 19-Julie Denton  
Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:11:59 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 S. 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

00:15:36 Mr. Ashburner stated, "The street closure we're seeking today is to give effect to binding element 7 in the rezoning case, which states, 'The applicant shall file a formal street closure application for the portion of Avoca Rd. to the west of the entrance to the subject property before approval of any construction plans for the proposed development.' There is an added condition: The applicant shall/should Louisville Metro government approve the street closure application, remove all pavement from the portion of the road that is closed.

**Deliberation**

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**PUBLIC HEARING**

**CASE NO. 17STREETS1014**

00:18:08 Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Partial Street Closure of Avoca Road beginning approximately 975 feet west from the intersection of Avoca Road at N. English Station Road to the Avoca Road terminus at the railroad.**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

**WHEREAS**, adequate public facilities are available to serve existing and future needs of the community. The proposed closures do not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

**WHEREAS**, utilities within the rights-of-way proposed for closure will be retained as an easement, relocated, or other arrangements made to ensure continued maintenance and provision of services to the property and community; and

**WHEREAS**, any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that Adequate street stubs for future roadway connections that support access and

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contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer.

Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent residential lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

**WHEREAS**, the Louisville Metro Planning Commission further finds there are no other relevant matters to be considered by the Planning Commission.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the partial street closure of Avoca Rd. as shown on the exhibit presented today, be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Ferguson, Howard, Lindsey, Peterson, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Lewis**

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**PUBLIC HEARING**

**EPSC Appeal**

Request: Appeal of a Notice of Violation issued by MSD in accordance with Chapter 159 of the Louisville Metro Code of Ordinances, titled Erosion Prevention and Sediment Control Ordinance  
Location: 4915 Spring Farm Road  
Appellant: Stan Humphrey  
Municipality: Louisville Metro  
Council District: 16 – Scott Reed

**NOTE: Commissioners Peterson and Tomes recused themselves from this case.**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Discussion**

00:20:55 Mr. Humphrey stated he's been a builder for approximately 35 years. This is his first time being fined by MSD.

Mr. Humphrey showed slides and gave his account of what happened, why he received a Notice of Violation and why there should be no fine to pay (remedied the problem).

00:39:19 Mr. Peterson vouched for Mr. Humphrey's character and quality of work.

00:41:03 Mr. Porter cross-examined Mr. Humphrey.

00:52:10 Mr. Bob Stauble, Construction Inspection Manager with MSD, answered questions from Mr. Porter.

01:49:00 Mr. Lester Worzel, Inspector with MSD, answered questions from the commissioners.

01:38:22 Mr. Porter remarked, "Regardless of the animosity between Mr. Humphrey and the neighbors, the black and white facts of this case are, on September 19<sup>th</sup> there were not the required Erosion Prevention Sediment Control Measures in place on 4915. Accordingly, our Notice of Violation should be upheld and the fine should remain in place."

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**EPSC Appeal**

**Deliberation**

01:52:56      Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

On a motion by Commissioner Howard, seconded by Commissioner Lindsey, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **UPHOLD** the Notice of Violation.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Ferguson, Howard, Lindsey, Smith and Jarboe**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes**

On a motion by Commissioner Lindsey, seconded by Commissioner Ferguson, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **UPHOLD** the assessed fine of \$2,000.00.

**The vote was as follows:**

**YES: Commissioners Carlson, Ferguson, Lindsey, Smith and Jarboe**

**NO: Commissioners Brown and Howard**

**NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes**

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**PUBLIC HEARING**

**CASE NO. 17SUBDIV1011**

Case No: 17SUBDIV1011  
Project Name: Johnson Road Conservation Subdivision  
Location: 1313 Johnson Road  
Owner(s): The Margaret Kleinert trust  
138 Clark Street  
Sellersburg, In. 47172

Applicant: Inverness Homes  
Bob Krohngold  
11305 Reed Hartman Highway, Suite 214  
Cincinnati, Oh 45241

Jurisdiction: Louisville Metro  
Council District: 19 – Julie Denton  
**Case Manager: Jay Luckett – Planner I**

**NOTE: Commissioner Peterson left and did not vote on this case.**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:09:23 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor, Louisville, Ky. 40223  
Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219  
Bob Krohngold, 11305 Reed Hartman Highway, Cincinnati, Ohio 45241  
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

**Summary of testimony of those in favor:**



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02:12:53 Mr. Bardenwerper gave a power point presentation.

02:15:36 Ms. Linares discussed the Resource and Site Analysis Plan. The steep slopes are covered in the tree masses. "We stayed away from the areas that have the steeper slopes, streams and drainageways." The lot sizes vary.

02:21:41 Mr. Bardenwerper stated Diane Zimmerman provided the Traffic Impact Analysis mainly for Shelbyville Rd., Johnson Rd. and Aiken Rd. "The most problematic is obviously right in the heart of Fisherville where Shelbyville Rd. goes from 3 to 2 lanes (1300-1400 feet). It should have been widened a long time ago. One of the reasons when KTC looked at it and didn't say anything about improving that intersection is because it's already a problem."

02:26:15 Mr. Bardenwerper stated that the Planning Commission can't legally require his applicant to fix existing problems that extend past his property line especially not under the regulations as written today.

02:40:03 Mr. Krohngold asks the Commission to approve the plan as it is compliant.

02:44:18 Ms. Zimmerman answered traffic questions from Commissioner Brown.

**The following spoke in opposition to this request:**

Casey Krill, 600 West Main Street, Suite 500, Louisville, Ky. 40202  
Councilwoman Julie Denton, 601 West Jefferson Street, Louisville, Ky. 40202  
Ann Neely, 1400 Brasslin Avenue, Louisville, Ky. 40245  
Chenelle Smith, 601 West Jefferson Street, Louisville, Ky. 40202

**Summary of testimony of those in opposition:**

02:55:18 Mr. Krill responded to comments made about traffic and road improvements in the proposed area. "A 1% growth doesn't begin to cover the 762 homes that are going to be built in this area over the next 2 years."

03:03:03 Councilwoman Denton stated she had LMPD pull stats for accidents along Shelbyville Rd. and Aiken Rd. This is a safety issue.

03:11:04 Ms. Neely remarked, "As a resident of the Eastwood area, I remain very concerned over the volume of new traffic that will be introduced into our area, not only with this one project, but other projects in the pipeline. My primary concern is the ability of life saving fire vehicles to respond to emergencies. The Shelbyville Rd./Johnson Rd.

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intersection clearly has major obstacles to overcome. If new projects continue to be viewed as one individual development, an already overtaxed infrastructure will be in crisis.”

03:25:22 Ms. Smith, Legislative Assistant, said the LMPD report (emailed to their office) showed 2 fatalities at the intersection of Shelbyville Rd. and Johnson Rd. from October 2015 to present.

03:28:15 Councilwoman Denton said she has been working on getting a new interchange on I-64 between the Simpsonville and Gene Snyder Freeway interchange. This has been in the works for 10 years. “I think we have a moral obligation to stand up for people and protect them. If Bill decides to go to court and it takes 2 years, I think I’ll have my road built by then.”

**The following spoke neither for nor against the request:**

Deb Delor, 16300 Eastwood Cutoff, Louisville, Ky. 40218

**Summary of testimony of those neither for nor against:**

03:15:53 Ms. Delor, Chair of Eastwood Village Council, stated she agrees with what was already said. It’s a Village Form District – has slow movement of village and concentrates connectivity between 5 rural roads leading to Shelbyville Rd.

**Rebuttal**

03:38:57 Mr. Bardenwerper remarked, “I think this was all excellent testimony because I drive these roads too and think it’s important to fix them. That is not the issue when it comes to the review of a subdivision.” The standards must be followed and you can’t let emotions be involved in the decision making process.

03:43:38 Mr. Bardenwerper stated, “This developer can’t close on the purchase of the land and will never get any bank financing to purchase this much land with an approval for 300 lots if theoretically he can never build his entire subdivision.”

**Deliberation**

04:06:42 Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

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**Conservation Subdivision to create 323 buildable lots on approximately 115.58 acres in the R-4 zoning district.**

04:37:37

On a motion by Commissioner Lindsey, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conservation Subdivision **SUBJECT** to the following Conditions of Approval:

**Conditions of Approval**

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by the Planning Commission staff's landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.

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4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
7. When limits of disturbance are shown on the plan. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
8. Any proposed signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat.
9. Any proposed signature entrance proposed within the Floyd's Fork Development Review Overlay shall adhere to the standards for signature entrances described in LDC Overlay standards.
10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
11. Potential buyers of lots that are crossed by the Western KY Gas/Atmos Energy Easement shall be informed of the location of the easement, and language describing the location of the easement through these lots will be provided in the deeds.
12. The applicant shall coordinate with Planning and Design Services landscape architecture staff to ensure appropriate fast growing native trees and shrubs are

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provided within the 60' scenic corridor buffer along Johnson Rd per LDC requirements for the Floyd's Fork Development Review Overlay.

13. A Conservation Area Management Plan shall be submitted in conjunction with Staff's review of the Record Subdivision Plat. The Management Plan shall be in compliance with the approved Conservation Subdivision Plan and Land Development Code, Section 7.11.8. Legal restrictions, ownership, and the Conservation Area Management Plan shall be subject to review and approval by the Planning Commission Legal Counsel.

**The vote was as follows:**

**YES: Commissioners Ferguson, Howard, Lindsey, Smith and Tomes**

**NO: Commissioners Brown, Carlson and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Lewis and Peterson**

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**CASE NO. 17ZONE1032**

Case No: 17ZONE1032  
Request: R-4 to R-5  
Project Name: Bryant Farms Subdivision  
Location: 16401 Shelbyville Road

Owner: William R. Bryant Living Trust & Pinnacle Properties of  
Louisville  
William R. Bryant  
414 Flat Rock Road  
Louisville, Ky. 40245

Applicant: Ball Homes  
Brian Stephens  
3609 Walden Drive  
Lexington, Ky. 40517

Representative: Bardenwerper, Talbott, & Roberts, PLLC  
William B. Bardenwerper  
1000 North Hurstbourne Parkway  
Louisville, Ky. 40223

Jurisdiction: Louisville Metro  
Council District: 19 – Julie Denton  
**Case Manager: Laura Mattingly, AICP, Planner II**

**NOTE: Commissioner Lindsey left and did not vote on this case.**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

04:40:48 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

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Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
Rocco A. Pignieri, Ball Homes, LLC, 13301 Magisterial Drive, Louisville, Ky. 40223  
Kyle N. Vaughn, 7600 West Highway 146, Suite 100, Peewee Valley, Ky. 40056

**Summary of testimony of those in favor:**

04:47:30 Mr. Bardenwerper gave a power point presentation. Some lots will be lost but there is support from the neighborhood.

04:55:40 Mr. Pignieri continued the power point presentation. "These are plans that will fit on the lots quite readily and fit in well with the size of the existing homes".

04:57:35 Mr. Vaughn represents the Gardner Park Homeowners Association. The main concern was the buffering issue which has now been resolved. It has been a pleasure working with the applicant and applicant representatives and they have gone above and beyond listening to concerns and working them out. "An agreement was made between us and Ball Homes".

**The following spoke in opposition to this request:**

Casey Krill, Attorney at Law, 600 West Main Street, Suite 500, Louisville, Ky. 40202

**Summary of testimony of those in opposition:**

05:06:10 Mr. Krill stated, "Provided Gardner Park is satisfied, the Village Council is ok with things as they stand."

**The following spoke neither for nor against the request:**

Deb Delor, 16300 Eastwood Cutoff, Louisville, Ky. 40018

**Summary of testimony of those neither for nor against:**

05:07:20 Ms. Delor stated, "We want to thank Ball Homes very much for responding to our interests and concerns. We are also pleased that the boundary at Gardner Park and the development have been improved. I would be remised if I did not say this is adding to traffic congestion and they will be utilizing Shelbyville Rd. There will be more developments introduced to you all and we still haven't answered the problem of how do

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we address safety and development in a coordinated fashion. That's a problem for us and will continue to be."

**Deliberation**

05:08:48 Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Zoning Change from R-4 to R-5**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

**WHEREAS**, the proposal introduces a slightly higher density than the surrounding neighborhoods; and

**WHEREAS**, the proposal is not a high density development with a net density of 3.92 dwellings per acre; and

**WHEREAS**, the proposed housing is similar to those surrounding and is therefore compatible; and

**WHEREAS**, the proposed neighborhood streets include sidewalks and are adequately connected to adjoining streets; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the proposal is for a medium density single family subdivision; and

**WHEREAS**, the Louisville Metro Planning Commission further finds seventeen percent of the subdivision acreage is dedicated to open space.

**WHEREAS**, the subject property is located in the Village and Neighborhood Form Districts, which is characterized by predominately residential uses from low to medium/high density and that blend compatibility into the existing landscape and neighborhood areas with the provision for open space and greenways (in this case in the form of the Shelbyville Road "Parkway") setback; this proposed R-5 subdivision is a low density one, although developed in accordance with a zoning district other than



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standard R-4, meaning an ever-so-slightly higher gross density (3.31 du/a) than perhaps otherwise achievable under the R-4 zoning district classification; the applicant could have chosen the "alternative development incentives (ADI) regulation" or "conservation subdivision regulation", or it could've applied for "PRD" rezoning; but R-5 is available, well-known, understood and easy to apply at this site, as there are other residential developments in the area that are zoned R-5 or comparable; and

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 14, 15, 16, 21, 22, 23 and 25 of Guideline 3 because this low density residential subdivision adds to the desired mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials; the proposed subdivision does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exist in the greater area; setbacks will include compatible side and rear yards, and the LDC tree canopy and landscape regulations will apply; houses face Shelbyville Road instead of back-up to it, and no waiver or variance, as originally proposed, are required here; and the detailed district development/preliminary subdivision plan (DDDP), neighborhood meeting PowerPoint and home design elevations filed with this application demonstrate all that; and

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 Single Family to R-5 Single Family be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Ferguson, Howard, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Lewis, Lindsey and Peterson**

**Development Plan/Preliminary Subdivision Plan with Binding Elements**

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted.

**WHEREAS**, there does not appear to be any steep slopes, water courses or hydric soils on site. The existing areas that are heavily wooded will be set aside as open space and preserved; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro

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Public Works has approved the preliminary development plan. The connections to existing roadways and the street stub to the property to the east are adequate for good connectivity; and

**WHEREAS**, the proposal exceeds the open space requirement; and

**WHEREAS**, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to allow transitions to the surrounding properties; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**WHEREAS**, the proposed subdivision and its DDDP comply with all applicable Intents and Policies 1, 2, 5, 6, and 7 of Guideline 4 and Policies 1 and 2 of Guideline 5 because unlike most standard single-family subdivisions, this one includes protected interior and perimeter open space, protecting some natural resources and features, notably a stream, and assuring good transitions to neighboring properties; the homeowners association will maintain these open areas; and an older structure on the site will be examined and its historic resources inventoried for Metro Historic Preservation review and archiving; and

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 2, 5, and 11 of Guideline 6 because this land is surrounded by like-kind subdivisions; and that makes it an infill single-family residential site, appropriate for the area in the larger community, where new single-family housing is in greatest demand; and

**WHEREAS**, the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 4, 6, 9, 11, 13, 14, 15, and 18 of Guideline 7; Policies 3, 5, 6, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 3 and 4 of Guideline 9; and Policies 1, 2, 4, 6 and 8 of Guideline 12 because this subdivision is situated on a major collector street (Shelbyville Road) where sewer, water and other utilities already exist, and where road capacity exists; further, this DDDP has been reviewed by Metro Transportation Planning and Public Works personnel, who gave their stamp of approval prior to its docketing for

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Planning Commission review; and that assures that all of these applicable Public Works standards are complied with, including regulatory standards of the Land Development Code (LDC); and

**WHEREAS**, the proposed DDDP proposes connectivity to the Gardiner Park retail center in order to assure less traffic on Shelbyville Road as residents from this and the connecting subdivisions can access the retail center on internal streets; and

**WHEREAS**, the proposed DDDP assures that all points of access into the proposed subdivision are designed to operate safely and, because of the distribution between these two streets to function at relatively low volumes, as neighborhood serving streets are expected to function; thus, negative internal traffic impacts are avoided with this proposed subdivision; and, as noted, design of the site, as shown on the DDDP accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required; and

**WHEREAS**, the proposed DDDP complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD requires that post-development peak rates of storm water runoff do not exceed pre-development peak flows, which is accomplished through on-site detention; new impervious areas will not have a negative impact on existing storm water systems; and MSD has given its stamp of preliminary approval the DDDP before it is set for Planning Commission review; and at time of construction, the proposed subdivision will need to include water quality measures to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

**WHEREAS**, the proposed subdivision complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of interior and perimeter landscaping; and the LDC will be fully complied with; and

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books and on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and Preliminary Subdivision Plan **SUBJECT** to the following Binding Elements with the revision to 9 - pluralize renderings:

**Binding Elements**

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit including but not limited to building, parking lot, change of use, site disturbance is requested:
  - a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these

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binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and other issues required by these binding elements.
  - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
8. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 16, 2017 Planning Commission meeting.
10. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

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12. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
13. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
14. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
15. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Ferguson, Howard, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Lewis, Lindsey and Peterson**

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**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy and Procedures Committee**

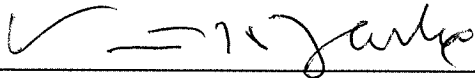
No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 6:28 p.m.



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**Chair**



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**Planning Director**

